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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/630,171	07/30/2003	James H. Hageman	MSH 00246	7651

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MCKELLAR IP LAW, PLLC
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EXAMINER

FERNSTROM, KURT

ART UNIT PAPER NUMBER

3711

DATE MAILED: 10/27/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/630,171

Applicant(s)

HAGEMAN, JAMES H.

Examiner

Kurt Fernstrom

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>7/30/03</u> . | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Information Disclosure Statement

Applicant is advised that the Information Disclosure Citation form for patents (PTO/SB/42) was mistakenly filed as the Information Disclosure Statement, rather than the PTO-1449 form for pending applications (PTO/SB/08). In order to expedite prosecution, the necessary changes have been made to the form, and it has been signed by the examiner.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Forestiere.

Forestiere discloses in the Figures and the specification a method for carrying out chemical reactions comprising a package 10 formed of upper and lower sheet materials A and B defining a first closed chamber 13 containing a first fluid reactant, and an adjacent, second closed container 14 containing a reactive component. The package is formed by sealing the upper and lower sheet materials together at the periphery edges 11, 17 and 18, as best shown in Figures 1 and 4. Forestiere further discloses a heat seal 19 formed between the chambers which is adapted to break when pressure is

applied to the first chamber, so that a user may selectively force the first fluid reactant into the second chamber to form a chemical reaction with the reactive component which may be observed by the user.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2-11 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Forestiere in view of Gleason. Forestiere discloses all of the limitations of the claims with the exception of the various types of fluids recited. Official Notice is taken that each of these fluids is a well known reactant, and would have been obvious to include in the method of Forestiere. This is particularly true in light of column 6, lines 6-15, which discusses the use of many different types of substances which are subject to chemical reaction. With respect to claim 11, Official Notice is taken that instructions are a very well known means of allowing a user to know how to use a given apparatus.

Claims 12 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Forestiere in view of Gleason. Forestiere discloses all of the limitations of the claims with the exception of the third chamber into which the contents of the first and second chamber flow upon pressure. Gleason discloses in column 10, lines 1-13 a method and device for conducting chemical reactions comprising a first chamber 22, a

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second chamber 30 and a third chamber 26, where the first and second chambers contain fluids which may be deposited into the third chamber to create a chemical reaction. It would have been obvious to one of ordinary skill in the art to modify the device of Forestiere by providing a third chamber of the type disclosed by Gleason for the purpose of allowing greater control over the types of chemical reactions created and observed.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Kaczmarek, Sirago, Mieth, Montgomery, Agnew, Gastle, and Freeman disclose various devices for inducing chemical reactions.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kurt Fernstrom whose telephone number is (571) 272-4422. The examiner can normally be reached on M, T, Th 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gene Kim can be reached on 571 272-4463. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

KF
October 23, 2005



KURT FERNSTROM
PRIMARY EXAMINER